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In re Application of
Blandina, Berry & Belczynski
Application No. 09/241,188
Filed: February 1, 1999
Attorney Docket No. 10655.7117
For: STORED VALUE TRANSACTION SYSTEM
HAVING AN INTEGRATED DATABASE
SERVER

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: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)
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This is a decision on the petition under 37 CFR 1.47(a), filed May 17, 1999.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on February 1, 1999 without an executed oath or declaration. Accordingly, on February 17, 1999, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on May 17, 1999, a petition for a one month extension of time and accompanying fee, a statement of facts by Mr. Howard I. Sobelman, the surcharge, and the instant petition and petition fee were filed.¹ In his statement of facts, Mr. Howard I. Sobelman, an attorney at the law firm of Snell & Wilmer LLP, alleges that Mr. Bradley P. Pollock, the attorney for the non-joining inventors, Ms. Mari Belczynski and Mr. Robert Berry, received a copy of the application for his clients' review and signature. Mr. Sobelman has provided a copy of a January 28, 1999 letter from Mr. Pollock to Mr. Sobelman that states Mr. Berry and Ms. Belczynski were provided with an incomplete application. Mr. Sobelman also states that it is his belief that Mr. Berry and Ms. Belczynski are refusing to sign the Declaration because despite repeated requests that they sign it, he has not received an executed declaration.

A grantable petition under 37 CFR 1.47(a) requires

- (1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
- (2) a proper oath or Declaration executed by the available joint inventor(s),

¹ Petitioner is advised that there was no declaration executed by joint inventor Blandina accompanying this petition.

- (3) the fee of \$130 as specified in 37 CFR § 1.17(h), and
- (4) the last known address of the omitted inventor(s).

This petition lacks items (1), (2) and (4) above.

As to item (1), Applicant has failed to establish that the non-signing inventors have refused to join in the application. The Office requires that the non-signing inventors be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). Mr. Sobelman's statement of facts does not establish that a complete copy of the application was mailed to Mr. Berry's and Ms. Belczynski's last known addresses. Mr. Pollock's January 28, 1999 letter states that the copy of the application that was given to him (by Mr. Blandina?) was lacking drawing figures that were referenced in the application. This implies the application was incomplete.

As petitioner is aware, circumstances change and individuals, when faced with opportunities, sometimes waiver from their stated intentions. Mr. Berry and Ms. Belczynski must have the complete application in their possession in order to make an informed decision as to whether they join in its filing. When petitioner can show that Mr. Berry and Ms. Belczynski were mailed or recieved the complete application and that they either refused to sign the declaration or would not respond to the request that they sign the declaration, petitioner will have satisfied this requirement.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration does not set forth Mr. Berry's and Ms. Belczynski's residence, citizenship, and post office address. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of Mr. Berry and Ms. Belczynski is REQUIRED. See MPEP 409.03(b).

As to item (4), a statement of the inventors last known addresses is missing and is required.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Applicant should be aware that no one has been empowered to act as attorney of record in the above-identified application..

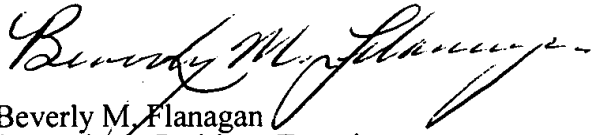
Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
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By facsimile: (703) 308-6916
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Telephone inquiries should be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.



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